IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3838 OF 2005

The State of Maharashtra & Ors. .. Petitioners.

V/s.

M/s.Thermax Pvt.Ltd. .. Respondent.

Mr.S.R. Nargolkar with Mr.V.A. Sonpal, AGP for the petitioners.

Mr.B.C. Joshi with Ms.N.R. Badheka for the respondent.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 26TH AUGUST, 2005.

P.C. :

1. Parties to the petition have filed minutes of order dated August 26, 2005 under joint signature of the respective advocate. The minutes of order is taken on record and, accordingly following order is passed :

2. Rule. Respondents waive service. By consent, the Rule is heard forthwith.

3. The petition takes exception to judgment and order dated January 20, 2005 passed by the Maharashtra Sales Tax Tribunal, Mumbai. The impugned judgment and order in para (40) contains directions

to place the matter before a Larger Bench of 3 members of the Tribunal and add the opinion rendered in impugned judgment of 2 members of the Bench to the opinion of Larger Bench, so that the final judgment would be considered to be of five members and the majority decision could prevail over. The impugned judgment and order is, therefore, to that extent set out in para 40 and 42 is set aside and the matter is remitted to the Tribunal for deciding afresh. The matter be placed before the President of the Tribunal, who shall constitute an appropriate Bench for deciding the matter. All contentions of both sides are expressly kept open and parties shall be at liberty to agitate the same before the Tribunal.

4. The Tribunal shall hear and decide the matter within 4 weeks from the date on which the Bench is constituted.

5. Writ petition disposed off with the above observations with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)